

**WARNING: AT LEAST ONE DOCUMENT COULD NOT BE INCLUDED!**  
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Document Number	Document Description	Pages	Document Error
Document 1 attachment	Attachment	12	<b>DOCUMENT COULD NOT BE RETRIEVED!</b> <b>However, it may still be viewable individually.</b>
Document 1 attachment	Attachment	3	<b>DOCUMENT COULD NOT BE RETRIEVED!</b> <b>However, it may still be viewable individually.</b>

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA  
450 Fifth Street, NW  
Washington, DC 20530,

Plaintiff,

v.

THIRD POINT OFFSHORE FUND, LTD.  
c/o Cayman Corporate Center  
27 Hospital Road  
George Town, Grand Cayman KY1-9008  
Cayman Islands,

THIRD POINT ULTRA LTD.  
c/o Maples Corporate Services (BVI) Ltd.  
Kingston Chambers, P.O. Box 173  
Road Town, Tortola  
British Virgin Islands,

THIRD POINT PARTNERS QUALIFIED  
L.P.  
Corporation Trust Center  
1209 Orange Street  
Wilmington, Delaware 19801, and

THIRD POINT LLC  
390 Park Avenue, 19<sup>th</sup> Floor  
New York, NY 10022,

Defendants.

Civil Action No.

**COMPLAINT FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF FOR FAILURE  
TO COMPLY WITH THE PREMERGER REPORTING AND WAITING  
REQUIREMENTS OF THE HART-SCOTT RODINO ACT**

The United States of America, Plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States and at the request of the Federal Trade Commission, brings this civil antitrust action to obtain monetary relief in the form of civil penalties and

injunctive relief against Defendants Third Point Offshore Fund, Ltd. (“Third Point Offshore”), Third Point Ultra Ltd. (“Third Point Ultra”), Third Point Partners Qualified L.P. (“Third Point Partners”) (collectively, “Defendant Funds”) and Third Point LLC (collectively with Defendant Funds, “Defendants”). Plaintiff alleges as follows:

### **INTRODUCTION**

1. The Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a (“HSR Act” or “Act”) is an essential part of modern antitrust enforcement. It requires the buyer and the seller of voting securities or assets in excess of a certain value to notify the Department of Justice and the Federal Trade Commission and to observe a waiting period prior to consummating the acquisition. This waiting period provides the federal antitrust agencies with an opportunity to investigate and to seek an injunction to prevent the consummation of acquisitions that are likely to be anticompetitive.

2. Each Defendant Fund violated the HSR Act’s notice and waiting requirements when it acquired voting securities of DowDuPont Inc. (“DowDuPont”) on August 31, 2017, as a result of the consolidation of Dow Chemical Company (“Dow”) and E.I du Pont de Nemours and Company (“DuPont”).

3. The Court should assess an appropriate civil penalty and injunctive relief for these violations of the HSR Act’s requirements.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over Defendants and over the subject matter of this action pursuant to Section 7A(g) of the Clayton Act, 15 U.S.C. § 18a(g), and pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and over Defendants by virtue of Defendants’ consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the Final

Judgment in this District.

5. Venue is properly based in this District by virtue of Defendants' consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the Final Judgment in this District.

### **THE DEFENDANTS**

6. Defendant Third Point Offshore is an offshore fund organized under the laws of the Cayman Islands with its registered office at Walkers Corporate Limited, Corporate Centre, 27 Hospital Road, George Town, Grand Cayman KY1-9008, Cayman Islands.

7. Defendant Third Point Ultra is an offshore fund organized under the laws of the British Virgin Islands with its registered office at Maples Corporate Services (BVI) Ltd., Kingston Chambers, P.O. Box 173, Road Town, Tortola, British Virgin Islands. The Investment Manager of Defendant Third Point Ultra has its office at 390 Park Avenue, 19th Floor, New York, NY 10022.

8. Defendant Third Point Partners is a limited partnership organized under the laws of the State of Delaware, with its principal place of business at Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801.

9. Defendant Third Point LLC is a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 390 Park Avenue, 19th Floor, New York, NY 10022. Defendant Third Point LLC makes all the investment decisions on behalf of the Defendant Funds, including deciding whether to file notifications pursuant to the HSR Act and preparing the notification forms on behalf of each of the Defendant Funds.

10. Defendants are engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 7A(a)(1) of the



Clayton Act, 15 U.S.C. §18a(a)(1). At all times relevant to this Complaint, each Defendant had total assets in excess of \$16.2 million.

#### **OTHER ENTITIES**

11. DowDupont is a corporation organized under the laws of the State of Delaware with its principal place of business at 2030 Dow Center, Midland, MI 48674. DowDuPont is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. § 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. §18a(a)(1). At all times relevant to this Complaint, DowDuPont had annual net sales in excess of \$161.5 million.

#### **THE HART-SCOTT-RODINO ACT AND RULES**

12. The HSR Act requires certain acquiring persons and certain persons whose voting securities or assets are acquired to file notifications with the federal antitrust agencies and to observe a waiting period before consummating certain acquisitions of voting securities or assets. 15 U.S.C. § 18a(a) and (b). The HSR Act's notification and waiting period requirements are intended to give the federal antitrust agencies prior notice of, and information about, proposed transactions. The waiting period is intended to provide the federal antitrust agencies with an opportunity to investigate a proposed transaction and to determine whether to seek an injunction to prevent the consummation of a transaction that may violate the antitrust laws.

13. The HSR Act's notification and waiting period requirements apply to acquisitions that meet the HSR Act's thresholds, which are adjusted annually. During the period of 2017 relevant to this Complaint, the HSR Act's reporting and waiting period requirements applied to transactions that would result in the acquiring person holding more than \$80.8 million of voting securities, non-corporate interests, or assets, if certain size of person tests were met, except for

certain exempted transactions.

14. Pursuant to Section 7A(d)(2) of the HSR Act, 15 U.S.C. § 18a(d)(2), the Federal Trade Commission promulgated rules to carry out the purpose of the HSR Act. 16 C.F.R. §§ 801-03 (“HSR Rules”). The HSR Rules, among other things, define terms contained in the HSR Act.

15. Section 801.2(a) of the HSR Rules, 16 C.F.R. § 801.2(a), provides that “[a]ny person which, as a result of an acquisition, will hold voting securities” is deemed an “acquiring person.”

16. Section 801.1(a)(1) of the HSR Rules, 16 C.F.R. § 801.1(a)(1), provides that the term “person” means “an ultimate parent entity and all entities which it controls directly or indirectly.”

17. Section 801.1(a)(3) of the HSR Rules, 16 C.F.R. § 801.1(a)(3), provides that the term “ultimate parent entity” means “an entity which is not controlled by any other entity.”

18. Section 801.2(d)(1)(i) of the HSR Rules, 16 C.F.R. § 801.2(d)(1)(i), provides that “mergers and consolidations are transactions subject to the act and shall be treated as acquisitions of voting securities.”

19. Section 801.13(a) of the HSR Rules, 16 C.F.R. § 801.13(a), provides that “all voting securities of the issuer which will be held by the acquiring person after the consummation of an acquisition shall be deemed voting securities held as a result of the acquisition.”

20. Section 802.21 of the HSR Rules, 16 C.F.R. § 802.21, provides that, when a person files under the HSR Act to acquire voting securities from an issuer and observes the waiting period, that person may acquire additional voting securities of the same issuer for five years after the end of the waiting period so long as it does not exceed any higher threshold as a

result of the combined purchases.

21. Section 7A(g)(1) of the Clayton Act, 15 U.S.C. § 18a(g)(1), provides that any person, or any officer, director, or partner thereof, who fails to comply with any provision of the HSR Act is liable to the United States for a civil penalty for each day during which such person is in violation. For violations occurring on or after November 2, 2015, and assessed after August 1, 2016, the maximum amount of civil penalty is \$40,000 per day, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74, § 701 (further amending the Federal Civil Penalty Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note), and Federal Trade Commission Rule 1.98, 16 C.F.R. § 1.98, 81 Fed. Reg. 42,476 (June 30, 2016). As of January 22, 2018, the maximum penalty amount was further increased to \$41,484 per day for civil penalties assessed after that date. 83 Fed. Reg. 2903 (Jan. 22, 2018).

22. Section 7A(g)(2) of the Clayton Act, 15 U.S.C. § 18a(g)(2), provides that if any person fails substantially to comply with the notification requirement under the HSR Act, a district court may grant such equitable relief as the court in its discretion determines necessary or appropriate, upon application of the Federal Trade Commission or the Assistant Attorney General.

### **VIOLATIONS ALLEGED**

23. Plaintiff alleges and incorporates paragraphs 1 through 22 as if set forth fully herein.

24. On December 11, 2015, Dow and DuPont entered into a Merger Agreement pursuant to which Dow and DuPont would consolidate into a single company, to be called DowDuPont.

25. On June 10, 2016, Dow and DuPont issued their Final Proxy

Statement/Prospectus for the consolidation. That document disclosed that, upon completion of the transaction, Dow and DuPont would cease to have their common stock publicly traded and that shareholders would own shares in DowDuPont and would not directly own any shares of Dow or DuPont.

26. On June 15, 2017, Dow and DuPont issued a joint press release stating that they had received antitrust clearance from the U.S. Department of Justice and that the transaction was on track to close in August 2017.

27. On August 4, 2017, Dow and DuPont issued a joint press release setting a closing date of August 31, 2017 for the transaction. The press release also stated that shares of Dow and DuPont would cease trading at the close of the New York Stock Exchange on August 31 and shares of DowDuPont will begin trading on September 1, 2017.

28. As of August 31, 2017, Defendant Third Point Offshore held 6,446,300 voting securities of Dow, Defendant Third Point Ultra held 4,376,813 voting securities of Dow, and Defendant Third Point Partners held 2,540,700 voting securities of Dow.

29. On August 31, 2017, Dow and DuPont completed the consolidation pursuant to the Merger Agreement of December 11, 2015, as amended on March 31, 2017. As a result of the consolidation, all holders of Dow and DuPont voting securities received voting securities of DowDuPont.

30. On August 31, 2017, each Defendant Fund received voting securities of DowDuPont valued in excess of \$80.8 million. Defendant Third Point Offshore acquired 6,446,300 voting securities of DowDuPont valued at approximately \$429.6 million. Defendant Third Point Ultra acquired 4,376,813 voting securities of DowDuPont valued at approximately \$291.7 million. Defendant Third Point Partners acquired 2,540,700 voting securities of

DowDuPont valued at approximately \$169.3 million.

31. Each Defendant Fund is its own ultimate parent entity within the meaning of the HSR Rules and had its own obligation to comply with the notification and waiting period requirements of the HSR Act and the HSR Rules.

32. The transactions described in Paragraph 30 were subject to the notification and waiting periods of the HSR Act and the HSR Rules. The HSR Act and HSR Rules in effect during the time period relevant to this proceeding required that each Defendant Fund file a notification and report form with the Department of Justice and the Federal Trade Commission and observe a waiting period before acquiring and holding an aggregate total amount of voting securities of DowDuPont in excess of \$80.8 million.

33. Previously, on April 7, 2014, each Defendant Fund had filed under the HSR Act to acquire voting securities of Dow and had observed the waiting period. Section 802.21 of the HSR Rules does not exempt the Defendant Funds' acquisitions of DowDuPont voting securities because DowDuPont is not the same issuer as Dow within the meaning of the HSR Rules. Among other things, for example, DowDuPont competes in additional lines of business from those in which Dow competed.

34. Although required to do so, each Defendant Fund failed to file and observe the waiting period prior to acquiring DowDuPont voting securities.

35. Defendant Third Point LLC had the power and authority to file a notification under the HSR Act on behalf of each of the Defendant Funds.

36. On November 8, 2017, each Defendant Fund filed a notification and report form under the HSR Act with the Department of Justice and the Federal Trade Commission reflecting their acquisitions of DowDuPont voting securities. The waiting period relating to these filings

expired on December 8, 2017.

37. Each Defendant Fund was in violation of the HSR Act each day during the period beginning on August 31, 2017, and ending on December 8, 2017.

38. Defendants are currently under a court decree, also in the District Court of the District of Columbia, resulting from allegations that they previously violated the HSR Act in connection with acquisitions of voting securities of Yahoo! Inc. (“Yahoo”). Specifically, on August 24, 2015, the United States filed a complaint for equitable relief alleging that Defendants’ acquisitions of Yahoo voting securities in August and September of 2011 violated the HSR Act. At the same time, the United States filed a Stipulation signed by Defendants and a proposed Final Judgment that included provisions imposing certain injunctive relief against Defendants, including the requirement that Defendants maintain a compliance program. That Final Judgment was entered by that court on December 18, 2015. *U.S. v. Third Point Offshore Fund, Ltd., et al.*, Case 1:15-CV-01366.

#### **REQUEST FOR RELIEF**

Wherefore, the Plaintiff requests:

1. That the Court adjudge and decree that each Defendant Fund violated the HSR Act, 15 U.S.C. § 18a, as alleged in this Complaint and that each Defendant Fund was in violation of the Act on each day of the period from August 31, 2017, through December 8, 2017;
2. That the Court order each Defendant Fund to pay to the United States an appropriate civil penalty as provided by the HSR Act, 15 U.S.C. § 18a(g)(1), the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74, § 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note), and Federal Trade Commission Rule 1.98, 16 C.F.R. § 1.98, 84 FR 3980 (Feb. 14, 2019);

3. That the Court adjudge and decree that Defendant Third Point LLC had the power and authority to prevent the violations by the Defendant Funds and that relief against Third Point LLC is necessary and appropriate in order to ensure future compliance with the HSR Act by the Defendant Funds;

4. That the Court issue an appropriate injunction preventing future violations by Defendants as provided by the HSR Act, 15 U.S.C. § 18a(g)(2);

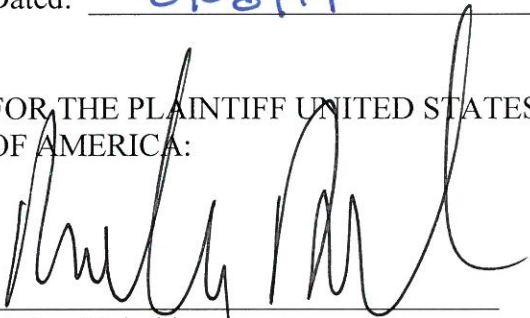
5. That the Court order such other and further relief as the Court may deem just and proper; and

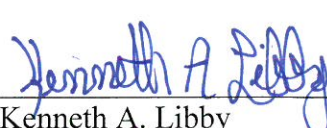
6. That the Court award the Plaintiff its costs of this suit.

Dated: \_\_\_\_\_

8/28/19

FOR THE PLAINTIFF UNITED STATES  
OF AMERICA:

  
Makan Delrahim  
Assistant Attorney General  
Department of Justice  
Antitrust Division  
Washington, DC 20530

  
Kenneth A. Libby  
Jennifer Lee  
Kelly Horne  
Special Attorneys



## CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

<b>I. (a) PLAINTIFFS</b> UNITED STATES OF AMERICA c/o Department of Justice  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> THIRD POINT OFFSHORE FUND, LTD. THIRD POINT ULTRA, LTD. THIRD POINT PARTNERS QUALIFIED L.P. THIRD POINT LLC COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>99999</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Kenneth A. Libby, Jennifer Lee, Kelly Horne Federal Trade Commission 400 Seventh Street S.W., Washington DC 20024 (202) 326-2694	ATTORNEYS (IF KNOWN) William H. Rooney DC Bar No. 386114 Wilkie Farr & Gallagher LLP 787 Seventh Avenue, New York, NY 10019-6099

<b>II. BASIS OF JURISDICTION</b> (PLACE AN x IN ONE BOX ONLY)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b>																								
<input checked="" type="radio"/> 1 U.S. Government Plaintiff  <input type="radio"/> 2 U.S. Government Defendant  <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)  <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width: 100%;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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## IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input checked="" type="radio"/> <b>A. Antitrust</b>  <input checked="" type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act  <b>Social Security</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>Other Statutes</b> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
<input type="radio"/> <b>E. General Civil (Other)</b> OR <input type="radio"/> <b>F. Pro Se General Civil</b>			
<b>Real Property</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <b>Personal Property</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>Bankruptcy</b> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>Prisoner Petitions</b> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement  <b>Property Rights</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<b>Federal Tax Suits</b> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609  <b>Forfeiture/Penalty</b> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>Other Statutes</b> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)



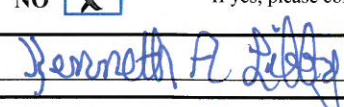
<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  <i>*(If pro se, select this deck)*</i>	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  <i>*(If pro se, select this deck)*</i>	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
☒ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from another district (specify)  
 ☐ 6 Multi-district Litigation  
 ☐ 7 Appeal to District Judge from Mag. Judge  
 ☐ 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 15 U.S.C. 18a Failure to comply with the requirements of the Hart-Scott-Rodino Antitrust Improvements Act

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ 609,810	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Check YES only if demanded in complaint			

<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form
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DATE: 8/28/19	SIGNATURE OF ATTORNEY OF RECORD: 
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**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

Plaintiff,

v.

THIRD POINT OFFSHORE FUND, LTD.

THIRD POINT ULTRA LTD.

THIRD POINT PARTNERS QUALIFIED  
L.P., and

THIRD POINT LLC

Defendants.

Civil Action No.

**STIPULATION**

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that the Court may file and enter a Final Judgment in the form attached to this Stipulation as Exhibit A, on the Court's own motion or on the motion of any party at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act ("APPA") (15 U.S.C. § 16), and without further notice to any party or other proceedings if the United States has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice of its withdrawal on Defendants Third Point Offshore Fund, Ltd., Third Point Ultra Ltd., Third Point Partners



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Qualified L.P., and Third Point LLC (collectively, "Defendants") and filing that notice with the Court;

(2) Defendants waive any objection to venue or jurisdiction for purposes of this action and authorize Willkie Farr & Gallagher LLP to accept service of all process in this matter on their behalf;

(3) Defendants agree to arrange, at their expense, publication of the newspaper notice required by the APPA, which shall be drafted by the United States as prescribed by the APPA. The publication shall be arranged no later than five (5) business days after Defendants' receipt from the United States of the text of the notice and the identity of the newspaper within which the publication shall be made. Defendants shall promptly send to the United States (1) confirmation that publication of the newspaper notice has been arranged, and (2) the certification of the publication prepared by the newspaper within which the notice was published;

(4) Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment. The United States shall have the full rights and enforcement powers in the proposed Final Judgment, including Section VIII, as though they were in full force and effect as the final order of the Court;

(5) This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court;

(6) In the event the United States has withdrawn its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, and the time has expired for all appeals of

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any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continued compliance with the terms and provisions of the proposed Final Judgment, then the parties are released from all further obligations under this Stipulation, and the making of this Stipulation and the submission of the proposed Final Judgment shall be without prejudice to any party in this or any other proceeding;


(7) The Defendants represent that the actions they are required to perform pursuant to the proposed Final Judgment can and will be performed, and that the Defendants will later raise no claim of mistake, hardship, or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained therein; and

(8) The entry of the Final Judgment in accordance with this Stipulation settles, discharges, and releases any and all claims of the United States and the Federal Trade Commission, including claims for civil penalties and equitable relief pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a, against Defendants for failure to comply with Section 7A of the Clayton Act, 15 U.S.C. §18a, in connection with the acquisition or receipt of voting securities of DowDuPont Inc. in 2017 by Defendant Third Point Offshore Fund, Ltd., by Defendant Third Point Ultra Ltd., and by Defendant Third Point Partners Qualified L.P.

FOR THE DEFENDANTS:

Third Point Offshore Fund, Ltd.  
Third Point Ultra Ltd.  
Third Point Partners Qualified L.P.  
Third Point LLC

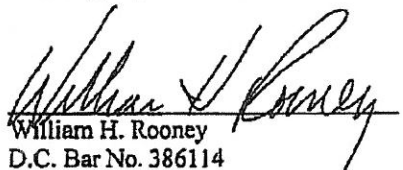
By:

  
Theodore C. Whitehouse  
D.C. Bar No. 298331  
Willkie Farr & Gallagher LLP  
1875 K Street, N.W.  
Washington, DC 20006-1238

Dated:

26 June 2019

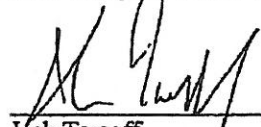
By:

  
William H. Rooney  
D.C. Bar No. 386114  
(Not admitted to the United States District Court  
for the District of Columbia)  
Willkie Farr & Gallagher LLP  
787 Seventh Avenue  
New York, NY 10019-6099

Dated:

June 19, 2019

By:

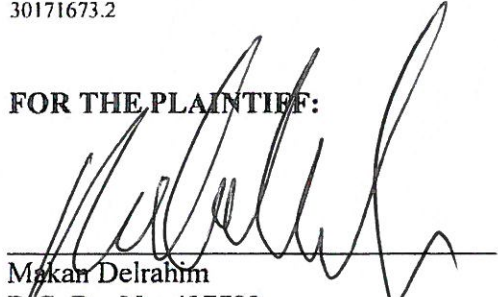
  
Josh Targoff  
(Admitted only to the Bar of New York)  
Partner, Chief Operating  
Officer and General Counsel  
Third Point LLC  
390 Park Avenue  
New York, NY 10022

Dated:

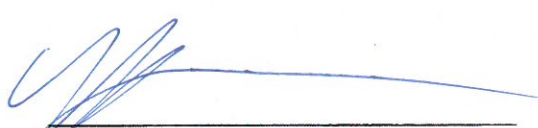
June 25, 2019

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**FOR THE PLAINTIFF:**



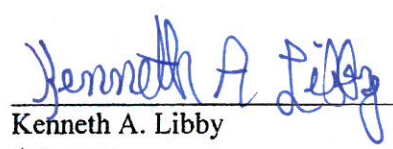
Makan Delrahim  
D.C. Bar No. 437793  
Assistant Attorney General  
Department of Justice  
Antitrust Division  
Washington, D.C. 20530  
(202) 514-2401



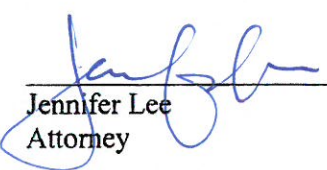
D. Bruce Hoffman  
D.C. Bar No. 495385  
Director  
Bureau of Competition  
Federal Trade Commission  
Washington, D.C. 20580  
(202) 326-2151



Marian Bruno  
D.C. Bar No. 414126  
Deputy Director



Kenneth A. Libby  
Attorney



Jennifer Lee  
Attorney

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**ORDER**

The Court having considered the parties' Joint Motion for Entry of Stipulation and Order, and upon the consent of the parties,

**IT IS HEREBY ORDERED** that all terms and provisions of the proposed Final Judgment shall be fully applicable to Defendants, and Defendants shall abide by and comply with such terms and provisions, pending compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

Dated: \_\_\_\_\_

\_\_\_\_\_  
UNITED STATES DISTRICT COURT JUDGE

30171673.2

**Parties Entitled To Notice Of Entry of Order**

**Counsel for the United States**

Kenneth A. Libby, Esq.  
Jennifer Lee, Esq.  
Special Attorneys  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
Tel: (202) 326-2694  
Fax: (202) 326-3392

**Counsel for the Defendants**

Josh Targoff, Esq.  
Partner, Chief Operating  
Officer and General Counsel  
Third Point LLC  
390 Park Avenue  
New York, NY 10022

Theodore C. Whitehouse,  
Esq.  
William H. Rooney, Esq.  
Philip F. DiSanto, Esq.  
Willkie Farr & Gallagher  
LLP  
787 Seventh Avenue  
New York, NY 10019  
*Counsel for Defendants*



**Exhibit A**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff

v.

THIRD POINT OFFSHORE FUND, LTD.,  
THIRD POINT ULTRA LTD.,  
THIRD POINT PARTNERS QUALIFIED  
L.P., and THIRD POINT LLC,

Defendants.

Civil Action No. [xx]-[xxxx]

[PROPOSED] FINAL JUDGMENT

WHEREAS, the United States of America filed its Complaint on August 28, 2019, alleging that Defendants Third Point Offshore Fund, Ltd., Third Point Ultra Ltd., and Third Point Partners Qualified L.P. (collectively, “Third Point Funds” or “Defendant Funds”) violated Section 7A of the Clayton Act (15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the “HSR Act”)), and the United States and Defendants Third Point Funds and Third Point LLC (collectively, “Defendants”), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against, or any admission by, any party regarding any such issue of fact or law;

AND WHEREAS Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

NOW, THEREFORE, before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon the consent of the parties, it is ORDERED, ADJUDGED AND

DECREED;

I. JURISDICTION

This Court has jurisdiction over the subject matter of this action. The Defendants consent solely for the purpose of this action and the entry of this Final Judgment that this Court has jurisdiction over each of the parties to this action and that the Complaint states a claim upon which relief may be granted against Defendants under Section 7A of the Clayton Act, as amended (15 U.S.C. § 18a).

II. DEFINITIONS

As used in this Final Judgment:

(A) “Consolidation” shall have the meaning of “consolidation” as used in 16 C.F.R. § 801.2.

(B) “Consolidated Issuer” means an Issuer that is formed by a Consolidation.

(C) “*De Minimis* Exemption” means a modification to the HSR Act or any Regulation thereunder that exempts from the reporting and waiting requirements of the HSR Act the acquisition of Voting Securities of an Issuer by any Acquiring Person, or by an Acquiring Person that is not a competitor of the Issuer or that otherwise meets specified criteria, on the basis that the acquisition results in the Acquiring Person’s holding not more than, or less than, a specified percentage of the outstanding Voting Securities of the Issuer.

(D) “Issuer” means a legal entity that issues Voting Securities.

(E) “Person” means any natural person.

(F) “Regulation” shall mean any rule, regulation, statement, or interpretation under the HSR Act that has legal effect with respect to the implementation or application of the HSR Act or any section within 16 C.F.R. §§ 801-803.

(G) “Third Point LLC” means Defendant Third Point LLC, a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 390 Park Avenue, 19th Floor, New York, NY 10022; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(H) “Third Point Offshore Fund, Ltd.” means Defendant Third Point Offshore Fund, Ltd., an exempted company organized under the laws of the Cayman Islands, with its registered office at Walkers Corporate Limited, Corporate Centre, 27 Hospital Road, George Town, Grand Cayman KY1-9008, Cayman Islands; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(I) “Third Point Partners Qualified L.P.” means Defendant Third Point Partners Qualified L.P., a limited partnership organized under the laws of the State of Delaware, with its registered address at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(J) “Third Point Ultra Ltd.” means Defendant Third Point Ultra Ltd., an international business company organized under the laws of the British Virgin Islands, with its registered office at Maples Corporate Services (BVI) Ltd., Kingston Chambers, P.O. Box 173, Road Town, Tortola,

British Virgin Islands; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(K) Other capitalized terms have the meanings as defined in the HSR Act and Regulations promulgated thereunder, 16 C.F.R. §§ 801-803.

### III. APPLICABILITY

(A) This Final Judgment applies to all Defendants, as defined above, and to all other Persons and entities who are in active concert or participation with any of the foregoing with respect to conduct prohibited in Paragraph IV when the relevant Persons or entities have received actual notice of this Final Judgment by personal service or otherwise.

(B) Pursuant to Rule 506(d)(2)(iii), 17 C.F.R. § 230.506(d)(2)(iii), as promulgated under the Securities Act of 1933, 15 U.S.C. § 77a, *et seq.*, disqualification under paragraph (d)(1) of Rule 506, 17 C.F.R. § 230.506(d)(1), shall not arise as a consequence of the entry of this Final Judgment or of the entry of any other order or judgment in this action.

### IV. PROHIBITED CONDUCT

Each Defendant is enjoined from acquiring Voting Securities of a Consolidated Issuer in exchange for Voting Securities of any Issuer that was a party to the Consolidation when:

(A) The acquisition of the Voting Securities of the Consolidated Issuer would meet the notification requirements of the HSR Act;

(B) Defendant's acquisition of such Voting Securities would not be exempt from the reporting and waiting requirements of the HSR Act; and

(C) Defendant has not fulfilled the reporting and waiting requirements of the HSR Act with respect to the acquisition of such Voting Securities.

V. CIVIL PENALTY

(A) Judgment is hereby entered in this matter in favor of Plaintiff and against the Defendants and, pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. § 18a(g)(1), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74 § 701, codified at 28 U.S.C. § 1 (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410 (codified at 28 U.S.C. § 2461 note)), and Federal Trade Commission Rule 1.98, 16 C.F.R. § 1.98, 81 Fed. Reg. 42, 476 (June 30, 2016), Defendant Funds are hereby ordered, jointly and severally, to pay a single civil penalty in the amount of six hundred nine thousand, eight hundred ten dollars and no cents (\$609,810.00). Payment of the civil penalty ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Defendant Funds shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514-2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to:

Janie Ingalls  
United States Department of Justice  
Antitrust Division, Antitrust Documents Group  
450 5th Street, NW  
Suite 1024  
Washington, D.C. 20530

(B) Defendant Funds shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of 18 percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

VI. COMPLIANCE INSPECTION

(A) For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the United States, including agents and consultants retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

- (1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and
- (2) to interview, either informally or on the record, Defendants' directors, officers, employees, agents, or other Persons, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

(B) Upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this Final Judgment shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States or of the Federal Trade Commission, except in the course of legal proceedings to which the United States is a party (including grand

jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If, at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

#### VII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish any violations of its provisions.

#### VIII. ENFORCEMENT OF FINAL JUDGMENT

(A) The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from this Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged civil violation of this Final Judgment, the United States may establish a civil violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.



(B) The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws, including the HSR Act and Regulations promulgated thereunder. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

(C) In any enforcement proceeding in which the Court finds that the Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

#### IX. EXPIRATION OF FINAL JUDGMENT

Unless the Court grants an extension, this Final Judgment shall expire five (5) years from the date of its entry, except that:

(A) after three (3) years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the civil penalty has been paid and that the continuation of the Final Judgment no longer is necessary or in the public interest; or

(B) if, during any part of the term of this Final Judgment, a *De Minimis* Exemption becomes legally effective, then this Final Judgment may be terminated only upon notice by the

United States to the Court that the continuation of the Final Judgment no longer is necessary or in the public interest. It shall be in the sole discretion of the United States whether to seek such termination after receiving a request to do so from Defendants.

X. COSTS

Each party shall bear its own costs.

XI. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making available to the public copies of this Final Judgment, the Competitive Impact Statement, any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

DATED: \_\_\_\_\_

Court approval subject to the  
Antitrust Procedures and Penalties Act,  
15 U.S.C. § 16

United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

Plaintiff

v.

THIRD POINT OFFSHORE FUND, LTD.,  
THIRD POINT ULTRA LTD.,  
THIRD POINT PARTNERS QUALIFIED  
L.P., and THIRD POINT LLC,

Defendants.

Civil Action No. [xx]-[xxxx]

[PROPOSED] FINAL JUDGMENT

WHEREAS, the United States of America filed its Complaint on August 28, 2019, alleging that Defendants Third Point Offshore Fund, Ltd., Third Point Ultra Ltd., and Third Point Partners Qualified L.P. (collectively, “Third Point Funds” or “Defendant Funds”) violated Section 7A of the Clayton Act (15 U.S.C. § 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the “HSR Act”)), and the United States and Defendants Third Point Funds and Third Point LLC (collectively, “Defendants”), by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against, or any admission by, any party regarding any such issue of fact or law;

AND WHEREAS Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

NOW, THEREFORE, before any testimony is taken, and without trial or adjudication of any issue of fact or law, and upon the consent of the parties, it is ORDERED, ADJUDGED AND

DECREED;

I. JURISDICTION

This Court has jurisdiction over the subject matter of this action. The Defendants consent solely for the purpose of this action and the entry of this Final Judgment that this Court has jurisdiction over each of the parties to this action and that the Complaint states a claim upon which relief may be granted against Defendants under Section 7A of the Clayton Act, as amended (15 U.S.C. § 18a).

II. DEFINITIONS

As used in this Final Judgment:

(A) “Consolidation” shall have the meaning of “consolidation” as used in 16 C.F.R. § 801.2.

(B) “Consolidated Issuer” means an Issuer that is formed by a Consolidation.

(C) “*De Minimis* Exemption” means a modification to the HSR Act or any Regulation thereunder that exempts from the reporting and waiting requirements of the HSR Act the acquisition of Voting Securities of an Issuer by any Acquiring Person, or by an Acquiring Person that is not a competitor of the Issuer or that otherwise meets specified criteria, on the basis that the acquisition results in the Acquiring Person’s holding not more than, or less than, a specified percentage of the outstanding Voting Securities of the Issuer.

(D) “Issuer” means a legal entity that issues Voting Securities.

(E) “Person” means any natural person.

(F) “Regulation” shall mean any rule, regulation, statement, or interpretation under the HSR Act that has legal effect with respect to the implementation or application of the HSR Act or any section within 16 C.F.R. §§ 801-803.

(G) “Third Point LLC” means Defendant Third Point LLC, a limited liability company organized under the laws of the State of Delaware, with its principal place of business at 390 Park Avenue, 19th Floor, New York, NY 10022; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(H) “Third Point Offshore Fund, Ltd.” means Defendant Third Point Offshore Fund, Ltd., an exempted company organized under the laws of the Cayman Islands, with its registered office at Walkers Corporate Limited, Corporate Centre, 27 Hospital Road, George Town, Grand Cayman KY1-9008, Cayman Islands; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(I) “Third Point Partners Qualified L.P.” means Defendant Third Point Partners Qualified L.P., a limited partnership organized under the laws of the State of Delaware, with its registered address at Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(J) “Third Point Ultra Ltd.” means Defendant Third Point Ultra Ltd., an international business company organized under the laws of the British Virgin Islands, with its registered office at Maples Corporate Services (BVI) Ltd., Kingston Chambers, P.O. Box 173, Road Town, Tortola,

British Virgin Islands; its successors and assigns; and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

(K) Other capitalized terms have the meanings as defined in the HSR Act and Regulations promulgated thereunder, 16 C.F.R. §§ 801-803.

### III. APPLICABILITY

(A) This Final Judgment applies to all Defendants, as defined above, and to all other Persons and entities who are in active concert or participation with any of the foregoing with respect to conduct prohibited in Paragraph IV when the relevant Persons or entities have received actual notice of this Final Judgment by personal service or otherwise.

(B) Pursuant to Rule 506(d)(2)(iii), 17 C.F.R. § 230.506(d)(2)(iii), as promulgated under the Securities Act of 1933, 15 U.S.C. § 77a, *et seq.*, disqualification under paragraph (d)(1) of Rule 506, 17 C.F.R. § 230.506(d)(1), shall not arise as a consequence of the entry of this Final Judgment or of the entry of any other order or judgment in this action.

### IV. PROHIBITED CONDUCT

Each Defendant is enjoined from acquiring Voting Securities of a Consolidated Issuer in exchange for Voting Securities of any Issuer that was a party to the Consolidation when:

(A) The acquisition of the Voting Securities of the Consolidated Issuer would meet the notification requirements of the HSR Act;

(B) Defendant's acquisition of such Voting Securities would not be exempt from the reporting and waiting requirements of the HSR Act; and

(C) Defendant has not fulfilled the reporting and waiting requirements of the HSR Act with respect to the acquisition of such Voting Securities.



V. CIVIL PENALTY

(A) Judgment is hereby entered in this matter in favor of Plaintiff and against the Defendants and, pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. § 18a(g)(1), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74 § 701, codified at 28 U.S.C. § 1 (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, Pub. L. 101-410 (codified at 28 U.S.C. § 2461 note)), and Federal Trade Commission Rule 1.98, 16 C.F.R. § 1.98, 81 Fed. Reg. 42, 476 (June 30, 2016), Defendant Funds are hereby ordered, jointly and severally, to pay a single civil penalty in the amount of six hundred nine thousand, eight hundred ten dollars and no cents (\$609,810.00). Payment of the civil penalty ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Defendant Funds shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514-2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to:

Janie Ingalls  
United States Department of Justice  
Antitrust Division, Antitrust Documents Group  
450 5th Street, NW  
Suite 1024  
Washington, D.C. 20530

(B) Defendant Funds shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of 18 percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

VI. COMPLIANCE INSPECTION

(A) For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, duly authorized representatives of the United States, including agents and consultants retained by the United States, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

- (1) access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants, relating to any matters contained in this Final Judgment; and
- (2) to interview, either informally or on the record, Defendants' directors, officers, employees, agents, or other Persons, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

(B) Upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this Final Judgment shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States or of the Federal Trade Commission, except in the course of legal proceedings to which the United States is a party (including grand

jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If, at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1) of the Federal Rules of Civil Procedure," then the United States shall give Defendants ten (10) calendar days' notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

#### VII. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish any violations of its provisions.

#### VIII. ENFORCEMENT OF FINAL JUDGMENT

(A) The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from this Court. Defendants agree that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged civil violation of this Final Judgment, the United States may establish a civil violation of the decree and the appropriateness of any remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

(B) The Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws, including the HSR Act and Regulations promulgated thereunder. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

(C) In any enforcement proceeding in which the Court finds that the Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with such other relief as may be appropriate. In connection with any successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved prior to litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as any other costs including experts' fees, incurred in connection with that enforcement effort, including in the investigation of the potential violation.

#### IX. EXPIRATION OF FINAL JUDGMENT

Unless the Court grants an extension, this Final Judgment shall expire five (5) years from the date of its entry, except that:

(A) after three (3) years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the civil penalty has been paid and that the continuation of the Final Judgment no longer is necessary or in the public interest; or

(B) if, during any part of the term of this Final Judgment, a *De Minimis* Exemption becomes legally effective, then this Final Judgment may be terminated only upon notice by the

United States to the Court that the continuation of the Final Judgment no longer is necessary or in the public interest. It shall be in the sole discretion of the United States whether to seek such termination after receiving a request to do so from Defendants.

X. COSTS

Each party shall bear its own costs.

XI. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making available to the public copies of this Final Judgment, the Competitive Impact Statement, any comments thereon, and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

DATED: \_\_\_\_\_

Court approval subject to the  
Antitrust Procedures and Penalties Act,  
15 U.S.C. § 16

United States District Judge